

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0301P

Sales and Use Tax

Calendar Years 1998 and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a manufacturer that was previously audited. Taxpayer made taxable purchases such as non production tools, cleaning supplies, pallets to hold samples for research testing, auto repair parts, fill sand, publications, fixed assets, and other miscellaneous items for its own use. Tax paid by the taxpayer in error was credited in the audit report.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting its sales and use taxes. Taxpayer protests the penalty based upon reasonable cause, primarily, that the assessment was due to unintentional errors and not due to willful neglect as required in IC 6-8.1-10-2.1. The error in sales amounted to .09% of its sales and, in the sampling made of its purchases subject to tax, 18.24% were found to not have Indiana sales tax collected on them. Taxpayer further states it recently installed a new accounting system that should aid in alleviating some of the unpaid use tax.

Further arguments include that it had not previously undergone an Indiana Sales and Use tax audit and had overlooked the taxability of some items purchased. The remainder of the use tax due relates to asset purchases. It had a large unpaid liability in the 1998 audit period on these assets but in 1999, the taxpayer started an internal audit procedure to assure that sales tax is

charged or use tax accrued. In making these corrections the unpaid tax on assets decreased from \$9,372 in 1998 to \$346 in 1999.

A review of the current audit revealed the taxpayer made no attempt to self assess use tax on clearly taxable items and failed to remit 61% and 14% in 1998 and 1999 respectively in use tax. The penalty is appropriate as the taxpayer made little effort to correctly self assess use tax. In addition, taxpayer had errors in the reporting of its sales tax.

FINDING

Taxpayer's protest is denied.

DSW/RAW/JMS/dw 012012